

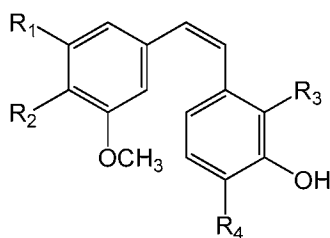
REMARKS

Applicant respectfully requests reconsideration of the present application in view of the reasons that follow. Claims 4, 10, 12, 13, 15, 16 and 58 are canceled. Claim 34 is amended as discussed below. After entrance of the present amendment, claims 34-37, 39, 40, 42, and 57 are pending.

35 U.S.C. § 102 - anticipation

Claims 4, 10, 12, 13, 16, 34-37, 57 and 58 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Pettit et al. (US 5,409,953). Claims 4, 10, 12, 13 and 16 are canceled, rendering the rejection of these claims moot. Claim 34 is amended to provide standard Markush group language (i.e., "selected from the group consisting of") and to delete recitation of hydrogen as a possible substituent at R₇.

The relevant disclosure of the Abstract of Pettit et al. provides a structural formula of:



wherein

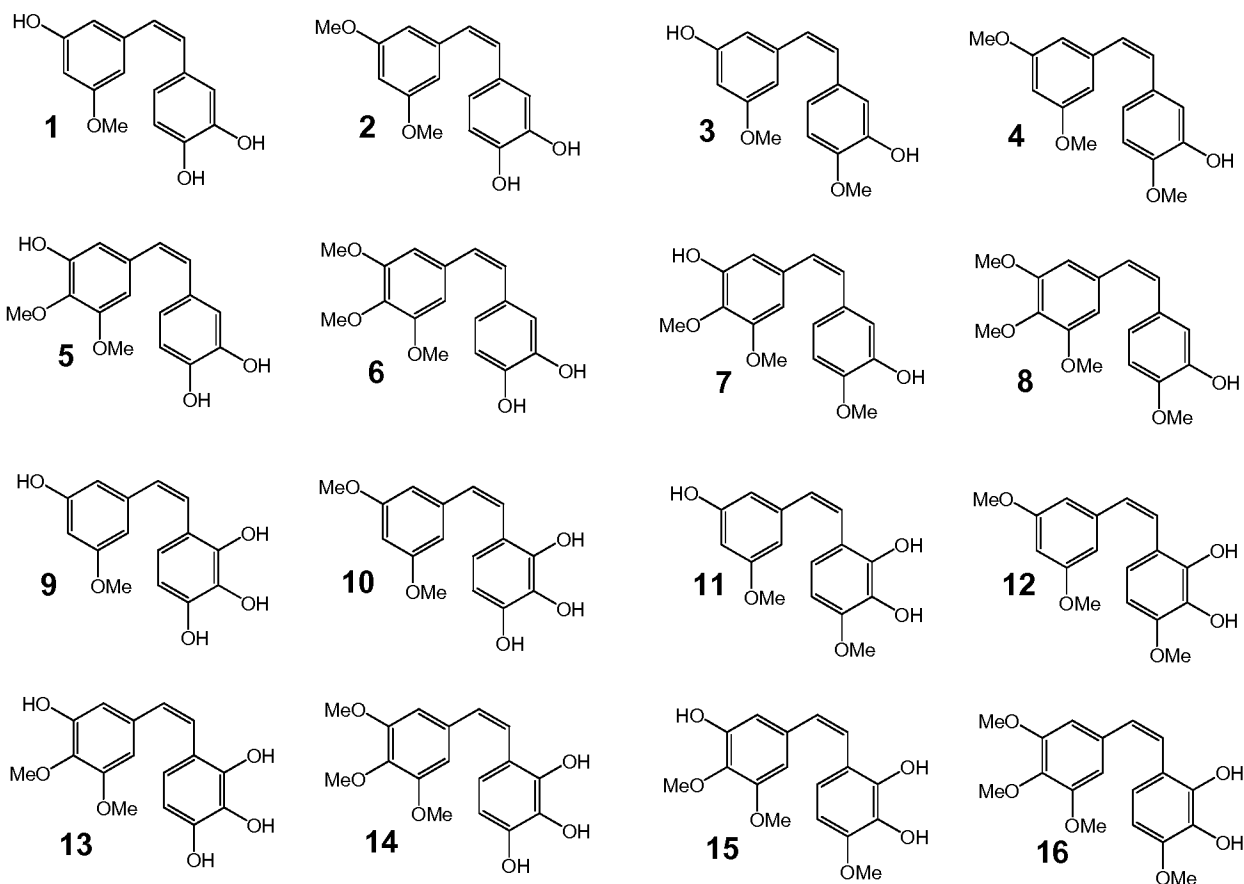
R₁ is OH or OCH₃;

R₂ is H or OCH₃; or R₁R₂ is -OCH₂O-;

R₃ is H or OH;

R₄ is OH or OCH₃.

This disclosure provides a genus of 16 compounds (excluding those which form a ring with R₁R₂ being -OCH₂O-), as follows:



Compounds 1-8, as extrapolated from the abstract of Pettit et al., do not anticipate claim 34, because claim 34 requires R₁ to be hydroxy or a prodrug thereof. Each of compounds 1-8, as extrapolated from the abstract of Pettit et al have a hydrogen at this position.

Compounds 9, 11, 13 and 15, as extrapolated from the abstract of Pettit et al., do not anticipate claim 34 of the present application because claim 34 does not permit a hydroxyl at R₈.

Compounds 1, 3, 5, and 7, discussed above, also do not anticipate claim 34 for the same reason

Compounds 10 and 14, as extrapolated from the abstract of Pettit et al., do not anticipate claim 34 of the present application because claim 34 does not permit a hydroxyl at R₃. Compounds 1, 2, 5, 6, 9 and 13, discussed above, also do not anticipate claim 34 for the same reason.

Compound 12, as extrapolated from the abstract of Pettit et al., does not anticipate claim 34, because claim 34 does not permit a hydrogen at R₇. Compounds 1-4 and 9-11, discussed above, also do not anticipate claim 34 for the same reason.

Compound 16, as extrapolated from the abstract of Pettit et al. is combretastatin A-1, which is explicitly excluded from claim 34 by proviso. Accordingly, no compound disclosed by Pettit, et al. anticipates claim 34, or any of its dependent claims. Further, none of the 16 compounds appears in claim 57, and thus Pettit et al. does not anticipate claim 57. Applicant requests withdrawal of the rejection.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-4279. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-4279. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-4279.

Respectfully submitted,

By:

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